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AUG 13 1998

Federal Communications Commission
Office of Secretary

August 13, 1998

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

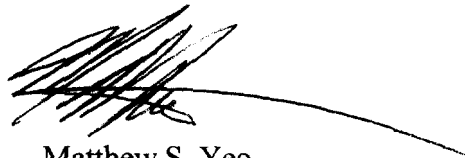
**Re: 1998 Biennial Regulatory Review – Review of International Common
Carrier Regulations, IB Docket No. 98-118**

Dear Ms. Salas:

Enclosed please find for filing on behalf of Iridium U.S., L.P. ("INA") an original and four copies of INA's comments in the above-captioned proceeding.

I have enclosed an additional copy of the filing, which I request that you date-stamp and return with our messenger.

Sincerely,



Matthew S. Yeo

Attorney for Iridium U.S., L.P.

cc: Regina Keeney
Jim Ball
Troy Tanner
Diane Cornell
George Li
Douglas Klein

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AUG 13 1998

Before the
FEDERAL COMMUNICATIONS COMMISSION Federal Communications Commission
Washington, D.C. 20554 Office of Secretary

In the Matter of)
)
1998 Biennial Regulatory Review –)
Review of International Common Carrier)
Regulations)

IB Docket No. 98-118

COMMENTS OF IRIDIUM U.S., L.P.

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, Iridium U.S., L.P. ("Iridium North America" or "INA") hereby submits these Comments in response to the Commission's Notice of Proposed Rule Making issued in the above-captioned proceeding. INA strongly supports the deregulatory initiatives proposed in the NPRM, and hereby responds to several of the specific questions raised by the Commission.

INA is an international CMRS carrier responsible in the U.S. for obtaining licenses and authorizations, constructing and operating gateway Earth station(s), connecting the Iridium® system space segment to the public switched telephone network, marketing Iridium services, selecting service providers, and managing relations with subscribers directly or through service providers.¹

¹ By order dated January 31, 1995, Motorola Satellite Communications, Inc. was licensed to construct, launch, and operate a low-Earth orbit mobile satellite system in the 1.6 GHz frequency band. *See In re Application of Motorola Satellite Communications, Inc. for Authority to Construct, Launch, and Operate a Low Earth Orbit Satellite System in the 1616-1626.5 MHz Band*, 10 FCC Rcd 2268 (1995). INA hold licenses for the Tempe, Arizona gateway as well as a blanket license for the Iridium system terminals. *See* Report No. DS-1863, File No. 1043-DSE-AL-98 (July 22, 1998) (assignment of Tempe gateway from U.S. LEO Services, Inc. to Iridium U.S., L.P.); Report No. DS-1868, File No. 1044-DSE-AL-98 (August 5, 1998) (assignment of blanket earth station authorization from U.S. LEO Services, Inc. to Iridium U.S., L.P.).

On January 9, 1998, INA received a Section 214 authorization to provide global facilities-based and resale services, subject to the conditions set forth at 47 C.F.R. § 63.18 and other specific conditions contained in the authorization.² INA will operate principally as an Iridium wholesaler to resellers who will independently obtain Section 214 authorizations under current Commission rules. Thus, INA and its resellers have a significant interest in the Commission's Section 214 procedures and, in particular, the proposals set forth in the NPRM.

I. Blanket Section 214 Authorizations and Forbearance

The Commission proposes to grant blanket Section 214 authorizations to providers of international telecommunications services on unaffiliated routes, *i.e.*, on those routes where the carrier does not have an affiliation with a carrier in the destination country.³ INA strongly supports this proposal as necessary to fulfill the Commission's goal of creating a truly competitive marketplace for international telecommunications services. As the Commission itself observed, "such a step would eliminate the delay that many new carriers face before commencing service and would also significantly reduce processing burdens on Commission staff."⁴ Given the absence of any competitive concerns about unaffiliated routes, this deregulatory measure proposed by the Commission is entirely warranted. Indeed, INA

² See Overseas Common Carrier Section 214 Applications Taken, 13 FCC Rcd. 354 (1998).

³ NPRM at ¶ 8.

⁴ Id.

believes that the Commission could extend the blanket authorization to any foreign-affiliated CMRS carrier that is non-dominant on a particular route.⁵

The Commission also requested comment on whether “forbearance, or a blanket international Section 214 authorization, or some combination of forbearance with safeguards, is more appropriate for CMRS providers than for other carriers seeking to provide international services.”⁶ As the Commission recognized in its decision to forbear from exercising its Section 214 authority over domestic CMRS providers, Section 214 is unnecessary in a competitive marketplace to prevent unreasonable charges and practices or to protect consumers from monopoly service providers.⁷ The same principle holds true in the context of international wireless services. Such providers have neither the incentive nor the ability to act anticompetitively. This is particularly the case for resellers of international wireless services because, as the Commission has recognized, international resellers pose no anticompetitive concerns.⁸

At the same time, the Commission is concerned that it must continue to have some means by which to review and enforce national security, law enforcement, foreign policy, and trade concerns.⁹ INA believes that this objective can be met by a requirement that providers

⁵ Significantly, the Commission has already taken this step in its 1996 Section 214 Streamlining Order. See Streamlining the International Section 214 Authorization Process and Tariff Requirements, *Report and Order*, 11 FCC Rcd 12,884 at ¶ 12 (1996).

⁶ Id. at ¶ 11.

⁷ See CMRS Second Report and Order, 9 FCC Rcd. at 1480-81, ¶ 182 (1994).

⁸ See Regulation of International Common Carrier Services, *Report and Order*, 7 FCC Rcd. 7331, 7335, ¶¶ 31-32 (1992).

⁹ See NPRM at ¶ 8.

of international CMRS services submit an annual report describing new construction and new service destinations. This would provide a sufficient basis upon which the Commission and other Executive Branch agencies could monitor international CMRS services, while at the same time minimizing the number of filings that service providers would have to make. Where necessary, the Commission could initiate a proceeding under Section 205, 47 U.S.C. § 205, to examine particular facilities or services that pose potential concerns, and impose appropriate conditions if necessary. Similarly, a government agency could file a complaint under Section 208, 47 U.S.C. § 208, to initiate a proceeding. In this manner, the Commission could continue to exercise authority over international CMRS services in exceptional cases, but would not impose unnecessary regulatory burdens on all such providers. INA believes that forbearing from all entry and exit Section 214 regulation and reporting new construction and service destinations annually constitutes an appropriate balance for international CMRS providers.

II. Pro Forma Applications

INA strongly supports the Commission's proposal to forbear from exercising its authority over *pro forma* assignments and transfers of control of Section 214 authorizations.¹⁰ The non-substantial assignments and transfers of control defined by the Commission's proposed new regulation do not implicate any significant regulatory or consumer protection concerns and, accordingly, should not require prior Commission approval. Adoption of this measure will greatly simplify internal corporate reorganizations and other minor transactions that do not

¹⁰ NPRM at ¶¶ 12-21.

involve a change in ownership or control, and allow companies to maintain optimal organizational responsiveness to changing market conditions.

III. Wholly-Owned Subsidiaries

Lastly, INA supports the Commission's proposed amendment to Section 63.21 of the Commission's rules, which would permit the holder of a Section 214 authorization to provide services through wholly-owned subsidiaries.¹¹ For a variety of commercial reasons, it is customary for a provider of international telecommunications services to operate through subsidiaries in individual markets. The Commission's proposal would permit service providers to structure their international operations in this manner without having to apply for separate Section 214 authorizations.¹² In order to increase this flexibility, INA would propose that the Commission allow the parent or any wholly-owned affiliate of a Section 214 holder to provide services.

¹¹ NPRM at ¶ 22.

¹² The Commission may wish to consider initiating a further rulemaking to consider whether to forebear from other Title II requirements as they apply to international CMRS, *e.g.*, Section 212 (interlocking directorates).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Philip L. Malet', is written over a horizontal line.

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August 13, 1998